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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. CR 17-0533 EMC
	)	
Plaintiff,	)	<b>UNITED STATES' OPPOSITION TO</b>
	)	<b>DEFENDANT HEFFERMAN'S MOTION TO</b>
v.	)	<b>MODIFY CONDITIONS OF RELEASE (Dkt.</b>
	)	<b>1158)</b>
MERL HEFFERMAN,	)	
	)	No Hearing Date Set
Defendant.	)	
	)	Hon. Joseph C. Spero

The government respectfully opposes Defendant Hefferman's request to travel out of the district to attend the funeral of a San Diego Hells Angels member.

As an initial matter, on Monday, Judge Kim denied an identical request made by Defendant Brian Burke and joined by Defendant Damien Cesena. Dkts. 1151 (Order); 1145 (Motion); and 1148 (Joinder). During the hearing on the motion, Judge Kim expressed concerns with granting travel outside the district during the time of COVID-19, and she observed that unfortunately, many people are missing funerals.

1 The government agrees with Judge Kim’s concerns about travel, particularly when linked to  
 2 attendance at a large event attended by individuals such as the Hells Angels. Traditionally, funerals for  
 3 a member in good standing can be large gatherings, particularly when that member had prominence  
 4 within the enterprise. *See, e.g.*, [https://www.mercurynews.com/2011/10/29/funeral-held-for-hells-angel-](https://www.mercurynews.com/2011/10/29/funeral-held-for-hells-angel-killed-at-fellow-bikers-burial-begins/)  
 5 [killed-at-fellow-bikers-burial-begins/](https://www.mercurynews.com/2011/10/29/funeral-held-for-hells-angel-killed-at-fellow-bikers-burial-begins/) (reference to “1,000 bikers” in attendance at a funeral; reference to  
 6 an earlier funeral that drew more than “3,000 bikers”);  
 7 <https://www.eastbaytimes.com/2008/09/15/about-1000-attend-funeral-of-slain-hells-angels-leader/>  
 8 (“Daly City police Sgt. David Mackriss said about 1,000 members and associates of the Hells Angels  
 9 club turned out at Duggan’s Serra Mortuary for the 10 a.m. funeral of Mark Guardado. A similar number  
 10 attended a vigil in Daly City last night.”). While these two funerals are somewhat outliers in terms of  
 11 numbers because of the circumstances of the deaths—one killed at an earlier funeral by a fellow Hells  
 12 Angel, and the other a charter president murdered by a member of the Mongols motorcycle gang—  
 13 funerals for members generally are well-attended. This is demonstrated by the request from three out-  
 14 of-town Hells Angels who are defendants in this case.

15 By virtue of their proud embrace of an outsider, anti-establishment persona, the Hells Angels and  
 16 their associates who will be at the funeral are less likely than other members of the public to follow the  
 17 practices necessary to stop the spread of the COVID-19 pandemic, such as physical distancing and mask  
 18 wearing. This can have serious consequences for public safety. Indeed, a surge in cases resulting from  
 19 the recent motorcycle rally in Sturgis, South Dakota is beginning to emerge. *See, e.g.*,  
 20 [https://www.forbes.com/sites/tommybeer/2020/08/24/dozens-of-coronavirus-cases-spread-across-at-](https://www.forbes.com/sites/tommybeer/2020/08/24/dozens-of-coronavirus-cases-spread-across-at-least-7-states-linked-to-sturgis-motorcycle-rally/#740de53d2915)  
 21 [least-7-states-linked-to-sturgis-motorcycle-rally/#740de53d2915](https://www.forbes.com/sites/tommybeer/2020/08/24/dozens-of-coronavirus-cases-spread-across-at-least-7-states-linked-to-sturgis-motorcycle-rally/#740de53d2915) ; [https://www.latimes.com/world-](https://www.latimes.com/world-nation/story/2020-08-25/sturgis-rally-coronavirus-dozens-infections)  
 22 [nation/story/2020-08-25/sturgis-rally-coronavirus-dozens-infections](https://www.latimes.com/world-nation/story/2020-08-25/sturgis-rally-coronavirus-dozens-infections).

23 As Judge Kim suggested, travel to and attendance at funerals presents health concerns for  
 24 members of the public. Frequently, it is prudent for ordinary citizens not to attend such gatherings,  
 25 particularly large ones. For individuals under pretrial supervision for significant crimes, the Court must  
 26 assess the nature of the danger to the public posed by their release, or in this case, the modification of  
 27 the conditions of that release. 18 U.S.C. § 3142(g)(4). Here, the danger posed by COVID-19 is

1 significant.

2 An additional concern for the government is that the funeral is for a prominent member of the  
3 Hells Angels, Guy Castiglione, who at one time was the president of the San Diego Hells Angels  
4 charter. Mr. Castiglione is mentioned in the government's expert declaration.

5 I know of instances where "Out" members were beaten out of the HAMC [Hells Angels  
6 Motorcycle Club]. For example, on March 25, 2016, Aden Stay, HAMC Honolulu  
7 president, was violently beaten out of the HAMC for allegedly conducting explicit social  
8 media communication with an incarcerated member's wife. At the behest of HAMC San  
9 Diego president Guy Castiglione, Stay and members of the charter were lured to the  
10 HAMC San Diego clubhouse, where Stay was violently beaten by an unknown number of  
HAMC. Stay sustained a concussion and a broken jaw after he was struck with a  
baseball bat.

11 Dkt. 1084 ¶ 116. As discussed above, it is likely that because of his status within the enterprise, Mr.  
12 Castiglione's funeral will be well attended by Hells Angels from a number of different charters. In  
13 addition to memorializing the decedent's life, the funeral will enable the Hells Angels in attendance to  
14 conduct Hells Angels business face-to-face, free from concerns about government surveillance,  
15 wiretapped phones, etc. This represents an independent ground to deny the motion.

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18 DATED: August 26, 2020

Respectfully submitted,

19 DAVID L. ANDERSON  
20 United States Attorney

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22 /s/  
23 KEVIN J. BARRY  
24 Assistant United States Attorney  
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